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Teiji Mizutani

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EXAMINER

DURAN, ARTHUR D

ART UNIT

PAPER NUMBER

3622

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05/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/761,378

Applicant(s)

MIZUTANI, TEIJI

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 6, 8 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 6, 8, and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 2, 6, 8, 11, 12, 13 have been examined.

Response to Amendment

2. The Amendment filed on 5/7/2007 is insufficient to overcome the prior rejection.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/7/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 6, 8, 11, 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggio (6,606,745) in view of Gardenswartz (6,055,573).

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Claims 2, 6, 8, 11, 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggio (6,606,745) in view of Gardenswartz (6,055,573) in further view of [Goldhaber (5,794,210) OR Gerace (5,848,396)].

Claims 12, 13:

Maggio discloses initiating contact with prospective customers via an unsolicited advertisement, controlling notice of prize or award information, registering attributes of applicant's for prize information, creating content data in accordance with attributes of the applicant information, transmitting the content data to the user (Fig. 2).

Maggio further discloses targeting a user based on information known on a user and providing attained user information for the purposes of targeting a user and also registering a user in order to attain user related information:

"Targeted advertising focuses on delivering specific, personalized advertising to the Consumers that meet a demographic profile specified by the Advertisers. Mass media advertising is usually less expensive per impression than targeted advertising. However, targeted advertising is usually more effective, and has become less expensive per impression as technology has progressed. As a result, the effectiveness of mass media advertising has been questioned (col 2, lines 10-18);

(16) The Promoters can sell the CRAV Ads to the Advertisers. The Promoters or the Advertisers can use the Broadcast Network to promote future CRAV Ads. The Promoters can use the Broadcast Network, the Device, the Information Gathering System, and the Data Storage Center to communicate the CRAV Ads to the Consumers and to interact with the Consumers. The Promoters or the Advertisers can use the Device, the Information

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Gathering System, and the Data Storage Center to gather the Consumers' responses to the CRAV Ads. The Promoters can edit and/or distribute the registration and response information to the Advertiser or other interested third parties. The Promoters can select the winners and distribute the prizes (col 3, lines 12-25);

(38) In another exemplary embodiment for registration, the Promoters may wish to obtain ID information, product-related information, or public opinion-related information. The demographic profile of each Consumer 110 may include age, sex, race, weight, height, zip code, physical home or e-mail address, occupation, individual annual earning, educational background, political affiliation, religious affiliation, family size, number of TVs and computers, Advertiser-related or public opinion survey questions, and prior CRAV Ad answers (historical response information). A detailed registration may be required for each CRAV Ad. However, gathering this information for each CRAV Ad makes the registration process time-consuming, costly, and redundant, and may deter the Consumers 110 from submitting a response. Thus, a one-time registration process is also available. In this mode, only changed/updated demographic or ID information (such as a change in marital status, phone number, etc.) is added for each CRAV Ad response after the original registration. Under this scenario, the original registration information is stored in the PDC 197. As new responses or update information are transmitted to the Data Storage Center 195, the Data Storage Center 195 is updated (col 10, lines 40-62).

(39) In another alternative embodiment for registration, when only one registration is used (as described above), the Advertisers may have the Consumers 110 with existing CRAV IDs enter additional demographic information to be qualified for the rewards.

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In this case, new "response" information is added for each additional CRAV Ad response after the original registration. Under this scenario, the original registration information would be stored in the DCS 196, and as new responses are transmitted to the Data Storage Center 195, the Data Storage Center 195 would be added to the registration information. The CRAV ID would be required before allowing additions to CRAV Ad records" (col 10, line 62-col 11, line 5).

Maggion does not explicitly disclose how the known information can concerning a user can be used for targeted content towards a user.

However, Gardenswartz further discloses utilizing prizes to incite certain user behavior:

"(53) One type of targeted advertisement that can be delivered in step 82 is a value contract. The value contract is a promotional incentive in which the consumer is offered a reward for complying with a particular behavioral pattern such as a predefined change in behavior or the continuance of an established behavior. Any type of reward may be offered. The reward may be "points" which may correspond to, or be redeemed for, cash, cash equivalents, frequent flier miles, minutes of long distance time, minutes of Internet service provider time, coupons, discounts, prizes, or free products, for example" (col 14, lines 50-60).

Gardenswartz discloses determining user preferences including brand or product type/category and also registering a user:

"(35) In step 60, the consumer's Web browser jumps to a registration Web page served by the registration server 14. Then, in step 62, the consumer registers online with the registration server 14 and, in the process, provides the registration server 14 with information,

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including an identifier found in the master record 30 (e.g., the consumer's CID). The consumer may supply the registration server 14 with information about the consumer to generate an online profile for the consumer. The online profile may include information such as the consumer's name CID, e-mail address, product/brand preferences, demographic information, work address, home address, whether the consumer has any babies, and whether the consumer has any pets such as a cat, dog, bird, or fish. Preferably, the online profile includes at least one item of information that is stored (or is to be stored) in the purchase history database 8" (col 11, lines 35-51).

Gardenswartz discloses targeting a user based on the information attained about a user:

"(43) In step 74, the analytics unit 16 sends to the registration server targeted ad profiles for each consumer identified in step 68. Each of the targeted ad profiles includes the consumer's CID and the purchase behavior classification(s) corresponding to that CID. The targeted ad profiles may be stored in a table such as an array or table of records, linked lists, or other suitable data structure" (col 13, lines 5-11).

Gardenswartz discloses utilizing information known about commercial articles for matching what content or content type or commercial article or commercial article type to send to a particular user:

"(19) The targeted ad profile 446 includes three fields, 449a, 449b, and 449c, for three purchase behavior classifications: Brand Z loyalty, Heavy Snacker, and Healthy Household, respectively. Each purchase behavior classification may be given any score (e.g., an integer), a describer (e.g., "Brand Z loyalist" or "Heavy Brand Z User"), flag ("1" or "0"), or rank (e.g.,

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"50.sup.th out of 50,000) that the consumer has received based on selected purchase behavior criteria which are discussed below with reference to FIG. 8 (col 9, lines 5-15);

(39) For example, the criterion for a class of "heavy Brand Z drinkers" may be defined as any consumer who has purchased Brand Z at least twice a year in the last month. As another example, the criterion for a class of "Brand Z loyalists" may be defined as any consumer who has purchased Brand Z at least once a month for the last nine months. Regardless of how different criteria are determined, the criteria are preferably based on information derived from marketing research. The purchase behavior criteria do not necessarily have to originate from the advertiser's server 18, but may originate from any suitable remote device such as the computer 26, the Web server 24, and/or the registration server 18" (col 12, lines 42-56).

Gardenswartz further discloses that second additional content data based on applicant information that allows a user to access other sets of content data:

"(34) Thus, a cookie can be assigned when a first Web page provided by the advertiser's server 18 is requested by the first computer 10. The first Web page can contain a link to a second Web page provided by the registration server 14. When the consumer selects the link to the second Web page, the cookie number can be placed in the URL statement for the second Web page, and thus sent to the registration server 14 (col 11, lines 27-35);

(9) Since cookies are also used to track a consumer's online activity, a Web server can deliver targeted advertisements to a consumer's Web browser, based on the consumer's online activity. For example, if a cookie tracks the various IP addresses accessed by the consumer's computer, the Web server can deliver ad banners to the consumer's Web browser based on the

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IP addresses the Web browser has accessed. Thus, the cookie can be used to record the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity. Using this inference, an advertiser can try to target specific advertisements to specific computer consumers, based on the record of the computer consumers' online activities. That is, the advertiser can try to expose the computer consumers to advertisements designed to appeal to their particular tastes and interests;

(10) The targeted advertisement can be implemented in several manners. For example, the advertiser can generate Internet banners that contain targeted ads and are visible to the consumer when the consumer accesses the advertiser's server, and/or the advertiser can automatically generate e-mail messages and send them to the consumer if the advertiser has the consumer's e-mail address" (col 2, lines 20-42).

Examiner takes Official Notice that it is old and well known that a banner or banner advertisement is an advertisement on a Web page that contains a link to the advertiser's Web site. Also, the Microsoft Press Computer Dictionary 3rd Edition states that a banner or banner advertisement is an advertisement on a Web page that contains a link to the advertiser's Web site.

Hence, notice in the above citations from Gardenswartz that Gardenswartz's providing of banner advertisements with links to further information where the banners and further information are provided to the user because of information known about the user is equivalent to providing second sets of data wherein the content contains a piece of information for accessing other sets of content. Gardenswartz's banner provides a link that is a piece of information for accessing other or additional content data.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Gardenswartz's further features for utilizing of user information in order to target a user to Maggio's collecting of information on a user for targeting a user. One would have been motivated to do this in order to make better user of the information collected in order to better target a user.

Additionally, Maggio and Gardenswartz disclose that the first content data-creating module creates content data based on the attributes of the applicants in the applicant information.

Maggio discloses collecting user attribute/ demographic information as part of the applicant information:

"Registration

(37) Registration information may include a variety of data. In one exemplary embodiment, the Promoters do not want to use demographic information and simply seek to identify the Consumers 110 for tracking and prize awarding purposes. The Consumers 110 are thus asked to provide simple information where they may be reached and identified if selected as a winner. This information may include a phone number, a social security number (or portion thereof), a birthday, a name, and an address. After providing the registration information, the Consumers 110 are provided with a unique "CRAV ID". This number may be a randomly generated unique number, or an easily remembered number or a series of numbers (such as a birthday and phone number combination), which may also provide ID information within the number.

(38) In another exemplary embodiment for registration, the Promoters may wish

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to obtain ID information, product-related information, or public opinion-related information. The demographic profile of each Consumer 110 may include age, sex, race, weight, height, zip code, physical home or e-mail address, occupation, individual annual earning, educational background, political affiliation, religious affiliation, family size, number of TVs and computers, Advertiser-related or public opinion survey questions, and prior CRAV Ad answers (historical response information). A detailed registration may be required for each CRAV Ad. However, gathering this information for each CRAV Ad makes the registration process time-consuming, costly, and redundant, and may deter the Consumers 110 from submitting a response. Thus, a one-time registration process is also available. In this mode, only changed/updated demographic or ID information (such as a change in marital status, phone number, etc.) is added for each CRAV Ad response after the original registration. Under this scenario, the original registration information is stored in the PDC 197. As new responses or update information are transmitted to the Data Storage Center 195, the Data Storage Center 195 is updated.

(39) In another alternative embodiment for registration, when only one registration is used (as described above), the Advertisers may have the Consumers 110 with existing CRAV IDs enter additional demographic information to be qualified for the rewards. In this case, new "response" information is added for each additional CRAV Ad response after the original registration. Under this scenario, the original registration information would be stored in

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the DCS 196, and as new responses are transmitted to the Data Storage Center 195, the Data Storage Center 195 would be added to the registration information. The CRAV ID would be required before allowing additions to CRAV Ad records” (col 10, line 25-col 11, line 10).

Maggio further discloses that user attribute/demographic information can be used to target users with particular content:

“(8) Advertising can be divided into two classes: mass media advertising and targeted advertising. Mass media advertising (i.e., broadcast TV, radio, and magazine) sends broadly based advertising messages to a wide spectrum of the Consumers. Targeted advertising focuses on delivering specific, personalized advertising to the Consumers that meet a demographic profile specified by the Advertisers. Mass media advertising is usually less expensive per impression than targeted advertising. However, targeted advertising is usually more effective, and has become less expensive per impression as technology has progressed. As a result, the effectiveness of mass media advertising has been questioned” (col 2, lines 5-19).

Also, Gardenswartz discloses collecting user attribute/ demographic information as part of the applicant information:

“(35) In step 60, the consumer's Web browser jumps to a registration Web page served by the registration server 14. Then, in step 62, the consumer registers online with the registration server 14 and, in the process, provides the registration server 14 with information, including an identifier found in the

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master record 30 (e.g., the consumer's CID). The consumer may supply the registration server 14 with information about the consumer to generate an online profile for the consumer. The online profile may include information such as the consumer's name CID, e-mail address, product/brand preferences, demographic information, work address, home address, whether the consumer has any babies, and whether the consumer has any pets such as a cat, dog, bird, or fish. Preferably, the online profile includes at least one item of information that is stored (or is to be stored) in the purchase history database 8. While referred to as an online profile, the profile may be generated or obtained on an offline basis, such as by filling out a card in a grocery store, for example. Other forms of registration may include a consumer entering registration information at a kiosk in the grocery store after scanning the bar code or alternatively swiping the magnetic strip of his or her shopper loyalty card through a magnetic strip reading device. The profile preferably includes information of how to transmit by computer information to the consumer, such as the consumer's e-mail address, IP (Internet protocol) address, or any information which may be used to electronically send information to the consumer, including, for example, through a paging device or a portable computer (col 11, liens 35-65).

Gardenswartz further discloses that user attribute/demographic information can be used to target users with particular content:

“(49) In step 80, the advertiser's server 18 matches the cookie number

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received from the first computer 10 to the modified targeted ad profile associated with the cookie number. Then, in step 80, the advertiser's server 18 delivers an advertisement to the first computer 10 based on at least one of the purchase behavior classifications stored in the targeted ad profile. In addition to the advertiser's server 18, any host computer or server (for example, Web servers 22, 24, the registration server 14, and/or computers 26, 28) having a domain name within the requisite range defined by the cookie may be programmed to perform steps 78 through 82 (col 13, line 60-col 14, line 5).

(66) When used as a targeted advertisement, the value contract provides an efficient way to deliver promotional incentives to consumers for whom the promotional incentives will be more meaningful. That is, consumers who already demonstrate desirable purchase behavior, based on their respective master record and/or targeted ad profiles, can be provided with different offers and incentives than consumers who demonstrate purchase behavior which an advertiser wishes to change” (col 17, lines 45-55).

Notice in Gardenswartz that a variety of information including user attribute and demographic information can be collected as part of the applicant/registrant's information and that all of this information can make up a user's profile. And, notice in Gardenswartz that the user's profile can be utilized for sending particular content to a user.

Hence, Maggio and Gardenswartz disclose that the first content data-creating module creates content data based on the attributes of the applicants in the applicant information.

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Additionally, Maggio and Gardenswartz render obvious that targeted advertisements are created for every combination of attributes in the applicant information and then e-mailed to the applicant.

Maggio further discloses collecting user e-mail information:

“(38) In another exemplary embodiment for registration, the Promoters may wish to obtain ID information, product-related information, or public opinion-related information. The demographic profile of each Consumer 110 may include age, sex, race, weight, height, zip code, physical home or e-mail address, occupation, individual annual earning, educational background, political affiliation, religious affiliation, family size, number of TVs and computers, Advertiser-related or public opinion survey questions, and prior CRAV Ad answers (historical response information”) (col 10, lines 40-50).

Maggio further discloses utilizing e-mail to send advertising/promotions to the user:

“(66) FIG. 15 is a picture flow diagram illustrating an exemplary CRAV Ad process for ABS and ACME to promote future CRAV Ads, as set forth in step 1210 of FIG. 12. In step 1501, the process 1210 is initiated at the "START" button 1501. In step 1505, ABS and ACME elect to promote and give advanced notice of the CRAV Ads. In step 1510, ABS chooses to promote the CRAV Ads on TV, the Internet 130, email, and TV guide, and ACME chooses to promote the CRAV Ads on the Internet 130, email, and cable TV. As set forth in step 1515, during the weeks before the broadcast, ABS promotes the upcoming "CRAV/ACME New Car Giveaway" promotion on its own ABS network. ABS also purchases TV guide

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magazine ads, posts information on the ABS Web site, and sends out information to its email lists. Also promoting the CRAV Ads are ACME's own banners on its Web site and email notification to its 3.5 million subscribers. ACME also advertises on the HiTechTV cable channel network (col 16, lines 11-30);

[Claim] 39. The system of claim 38, wherein the advertisements are communicated to the mass audience via an electronic mail message carried by the distributed computer network;

[Claim] 41. The system of claim 40, wherein the alert is communicated to the mass audience via an electronic mail message carried by the distributed computer network;

[Claim] 42. The system of claim 41, wherein the advertisements are communicated to the mass audience via an electronic mail message carried by the distributed computer network.”

Maggio further discloses that it is old and well known that advertising can be targeted (from the “Background of the Invention” section):

“(8) Advertising can be divided into two classes: mass media advertising and targeted advertising. Mass media advertising (i.e., broadcast TV, radio, and magazine) sends broadly based advertising messages to a wide spectrum of the Consumers. Targeted advertising focuses on delivering specific, personalized advertising to the Consumers that meet a demographic profile specified by the Advertisers. Mass media advertising is usually less expensive per impression than targeted advertising. However, targeted advertising is usually more

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effective, and has become less expensive per impression as technology has progressed. As a result, the effectiveness of mass media advertising has been questioned” (col 2, lines 5-19).

Note that Maggio discloses that unique advertising can be sent for every demographic profile that the advertiser specifies:

“Targeted advertising focuses on delivering specific, personalized advertising to the Consumers that meet a demographic profile specified by the Advertisers” (col 2, lines 5-19).

And, note that there is no limit in Maggio on how many different types of profiles, each of which are a combination of attributes, that the advertiser can specify are to each receive a specific advertisement.

Gardenswartz further discloses sending targeted advertising via e-mail:

“(10) The targeted advertisement can be implemented in several manners. For example, the advertiser can generate Internet banners that contain targeted ads and are visible to the consumer when the consumer accesses the advertiser's server, and/or the advertiser can automatically generate e-mail messages and send them to the consumer if the advertiser has the consumer's e-mail address (col 2, lines 35-42);

(10)...Different types of targeted advertisements, include Internet banners, real time moving videos, video information, animation information, audio information, online interstitial advertisements, electronic mailings (e-mails), interactive television advertisements, and any other type of message, recording, and/or display (col 7, lines 18-25);

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(53). . . The registration server 14 (or any other suitable server) may be programmed to serve customized Web pages to consumers's computers. Such customized Web pages may display such information as a consumer's accumulated points and the various prizes, rewards, etc. that can be "purchased" with the points. The reward may also be an e-mail message with a password for a Web page full of coupons and customized according to the consumer's observed offline purchase history, for example. The e-mail may also have a link that the consumer can select to start the Internet software on his or her computer and request a customized Web page of coupons" (col 14, line 60-col 15, line 5).

Gardenswartz further discloses advertisements targeted to a particular users tastes and interests:

"(9). . . That is, the advertiser can try to expose the computer consumers to advertisements designed to appeal to their particular tastes and interests" (col 2, lines 30-35).

Gardenswartz further discloses a specific ad sent to a specific combination of attributes of users or specific ads sent to specific classifications of users which are based on combinations of attributes of users (Figures 4a, 5, 7, 8, 9, and 11). Also, note in Gardenswartz that there is not a limit as to how many classifications can be specified.

Hence, both Maggio and Gardenswartz disclose that one to many different types of attribute combinations can each have a specific targeted advertisement specified/created for it.

Hence, the combination of Maggio and Gardenswartz renders obvious the features of the Applicant's claims.

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Additionally, Maggio does not explicitly disclose that article or commercial article information is collected from sites on the Internet can be presented to the user.

Or, Maggio does not explicitly disclose that an article information acquiring module periodically accesses predetermined information sites to acquire said content data [and] wherein said content data is acquired by periodically accessing predetermined information sites, Or acquiring article information on the basis of an applicant's registered attributes, creates data content for an applicant on the basis of an applicant's registered attributes, and sends an e-mail to the applicant's registered e-mail address containing relevant data content (acquired article information).

However, Maggio further discloses that a variety of content can be presented to the user (col 14, lines 50-65) and Maggio discloses that targeted content that is collected can be presented to the user (see rejection above).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that article or commercial article information that is collected from sites on the Internet can be presented to the user can be performed by Maggio. One would have been motivated to do this in order to better present content of interest to the user.

Alternatively, Goldhaber discloses wherein an article information acquiring module periodically accesses predetermined information sites to acquire said content data [and] wherein said content data is acquired by periodically accessing predetermined information sites, Or acquiring article information on the basis of an applicant's registered attributes, creates data content for an applicant on the basis of an applicant's registered attributes, and

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utilizes e-mail; and sends the relevant data content (acquired article information) (Abstract; Figures 7, 9, 10, 11, 14; col 5, lines 5-25; col 18, lines 5-12; col 19, lines 35-col 20, line 6; col 6, lines 10-20; col 13, lines 10-15).

Alternatively, Gerace discloses wherein an article information acquiring module periodically accesses predetermined information sites to acquire said content data [and] wherein said content data is acquired by periodically accessing predetermined information sites, Or acquiring article information on the basis of an applicant's registered attributes, creates data content for an applicant on the basis of an applicant's registered attributes, and sends an e-mail to the applicant's registered e-mail address containing relevant data content (acquired article information) (Fig. 2; Fig. 3a; Fig. 4a; col 10, lines 35-53).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Goldhaber's OR Gerac'es article or commercial article information that is collected from sites on the Internet and presented to the user can be added to Maggio. One would have been motivated to do this in order to better present content of interest to the user.

Additionally, in regards to the claim amendments for claims 12 and 13 dated 5/7/2007, Maggio discloses sending information to the user based on the profile, preferences, or favorites of the user (Figure 16; col 16, line 40-col 17, line 10; Figures 1 and 2; col 2, lines 5-20. Notice that Maggio tracks "Favorite Network" in Figure 16). Maggio discloses that this information on profile, preferences, or favorites of the user can be collected both actively through questions/surveys (Figure 16, Identification Information and Demographic Information) and passively thru user tracking (Figure 16, Historical Response Information).

Also, in regards to the addition of the “car” or automobile as a favorite item of the user, Examiner notes that the car is non-functional descriptive material in the Applicant’s claims. Please see MPEP 2106.01 and 2106.01.II. Note that it does not matter to the function of the claim whether favorite cars or favorite shoe are tracked. Rather, favorite or preferred items/goods/services are tracked.

And, Maggio discloses that goods and services can be tracked (col 1, lines 62-67; col 2, lines 55-62). And, Maggio discloses that car related information can be tracked or promoted (Fig. 16; col 16, lines 20-25; col 16, lines 55-60; col 17, line 35-col 18, line 5; col 20, lines 5-20).

Therefore, it is obvious that Maggio’s tracking of user favorites and preferences related to goods/items/services can also include the cars. One would be motivated to do this to better promote the sales of goods/services/items such as the cars that Maggio discloses the user’s are already interested in.

Also, Goldhaber discloses tracking user favorites including favorite or preferred cars (col 6, lines 55-61; col 17, line 63-col 18, line 12; col 19, line 35-col 20, line 7).

Claims 2, 8: The combination of the prior art discloses the above. Additionally, Maggio further discloses an application accept module for receiving the applicant information on the attributes of the applicants (Figures 16, 19, 20), and accepting the applications for the prize information (Figures 19, 20).

Claims 6, 11: The combination of the prior art discloses the above. Additionally, Maggio discloses that the piece of information for accessing said other sets of content data contains identification of the applicant (Figure 16). Note in Figure 16 that Maggio can utilize e-mail or other identifiers as identification information for the user. And, Maggio can

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access the historical response information for a user. Hence, Maggio can utilize any of the identifications of the user, including e-mail, to access the other content that the user has been presented and also content data that is to be presented to the user. Also, note that the e-mail address of the user is sent with the content data that is sent to the user via e-mail. Also, Maggio discloses that the content data can be sent via e-mail (Fig. 15; col 16, lines 15-25).

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are not found persuasive.

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to. Also, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Also, Examiner notes that it must be presumed that the artisan knows something about the art apart from what the references disclose. *In re Jacobv*, 309 F.2d 513, 135 USPQ 317 (CCPA 1962). The problem cannot be approached on the basis that artisans would only know what they read in references; such artisans must be presumed to know something about the art apart from what the references disclose. *In re Jacoby*. Also, the conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint of suggestion a particular reference. *In re Bozek*, 416 F.2d 1385, USPQ 545 (CCPA 1969). And, every reference relies to some extent on knowledge or persons skilled

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in the art to complement that which is disclosed therein. In re Bode, 550 F.2d 656, USPQ 12 (CCPA 1977).

In regards to claims 6 and 11, Maggio discloses that the piece of information for accessing said other sets of content data contains identification of the applicant (Figure 16). Note in Figure 16 that Maggio can utilize e-mail or other identifiers as identification information for the user. And, Maggio can access the historical response information for a user. Hence, Maggio can utilize any of the identifications of the user, including e-mail, to access the other content that the user has been presented and also content data that is to be presented to the user. Also, note that the e-mail address of the user is sent with the content data that is sent to the user via e-mail. Also, Maggio discloses that the content data can be sent via e-mail (Fig. 15; col 16, lines 15-25).

Additionally, in regards to the claim amendments for claims 12 and 13 dated 5/7/2007, Maggio discloses sending information to the user based on the profile, preferences, or favorites of the user (Figure 16; col 16, line 40-col 17, line 10; Figures 1 and 2; col 2, lines 5-20. Notice that Maggio tracks "Favorite Network" in Figure 16). Maggio discloses that this information on profile, preferences, or favorites of the user can be collected both actively through questions/surveys (Figure 16, Identification Information and Demographic Information) and passively thru user tracking (Figure 16, Historical Response Information).

Also, in regards to the addition of the "car" or automobile as a favorite item of the user, Examiner notes that the car is non-functional descriptive material in the Applicant's claims. Please see MPEP 2106.01 and 2106.01.II. Note that it does not matter to the function of the

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claim whether favorite cars or favorite shoe are tracked. Rather, favorite or preferred items/goods/services are tracked.

And, Maggio discloses that goods and services can be tracked (col 1, lines 62-67; col 2, lines 55-62). And, Maggio discloses that car related information can be tracked or promoted (Fig. 16; col 16, lines 20-25; col 16, lines 55-60; col 17, line 35-col 18, line 5; col 20, lines 5-20).

Therefore, it is obvious that Maggio's tracking of user favorites and preferences related to goods/items/services can also include the cars. One would be motivated to do this to better promote the sales of goods/services/items such as the cars that Maggio discloses the user's are already interested in.

Also, Goldhaber discloses tracking user favorites including favorite or preferred cars (col 6, lines 55-61; col 17, line 63-col 18, line 12; col 19, line 35-col 20, line 7).

Hence, the combination of the prior art renders obvious the features of the Applicant's claims.

Also, Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art

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of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Arthur Duran
Primary Examiner
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5/15/2007